

Office Action Summary

Application No.

09/304,716

Applicant(s)

CREE ET AL.

Examiner

Michele Kidwell

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-8 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-8 and 10-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 6 – 8 and 10 – 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Reising (US 4,988,345).

As to claim 6, Reising discloses a sanitary napkin (col. 31, lines 48 – 52) comprising a liquid permeable top layer (38), a liquid impermeable back layer (40), and a liquid absorbent core disposed between the top layer and the back layer (figure 3) wherein the top layer has a central zone and side zones at both sides of the central zone (figure 3) and the top layer includes an upper layer of thermoplastic synthetic resinous material (col.5, lines 14 – 22) and a lower layer (50) of thermoplastic synthetic fibers which are more hydrophilic than the upper layer but less hydrophilic than the core (col. 14, line 1 to col. 15, line 7) wherein upper and lower layers are intermittently bonded together by thermal embossing (col. 16, lines 59 – 64) and the central zone is thicker than the sides zones as set forth in figure 2. Additionally, the incorporation of U.S. Patent No. 4,573,986 discloses the use of thermal embossing in the side zones as set forth in figure 1 designated by reference numeral 46.

With reference to claim 7, Reising discloses a sanitary napkin wherein the lower layer is coextensive substantially with an entire surface of the upper layer as set forth in figure 2.

As to claim 8, Reising discloses a sanitary napkin wherein portions of the top layer and the back layer extend outwards beyond a peripheral edge of the core and are bonded together by seal line as set forth in col. 6, lines 1 – 16.

Regarding claims 10 and 11, Reising discloses a sanitary napkin wherein the thermoplastic resinous material is a fibrous nonwoven fabric or a perforated film as set forth in col. 5, lines 11 – 34.

As to claim 12, Reising discloses a sanitary napkin (col. 31, lines 48 – 52) comprising a liquid permeable top layer (38), a liquid impermeable back layer (40), and a liquid absorbent core disposed between the top layer and the back layer (figure 3) wherein the top layer has a central zone and side zones at both sides of the central zone (figure 3) and the top layer includes an upper layer of thermoplastic synthetic resinous material (col.5, lines 14 – 22) and a lower layer (50) of thermoplastic synthetic fibers (col. 14, line 1 to col. 15, line 7) wherein upper and lower layers are intermittently bonded together by thermal embossing (col. 16, lines 59 – 64) and the central zone is thicker than the sides zones as set forth in figure 2. Additionally, the incorporation of U.S. Patent No. 4,573,986 discloses the use of thermal embossing in the side zones as set forth in figure 1 designated by reference numeral 46.

Response to Arguments

Applicant's arguments filed January 14, 2002 have been fully considered but they are not persuasive.

With respect to the applicant's argument that Reising does not teach or suggest a core disposed between a liquid permeable top layer which is comprised of an upper layer and a lower layer and a liquid impermeable backsheet, the examiner takes the position that the liquid permeable top layer includes the layer indicated by reference character 38 and the liquid handling layer referred to by reference character 50. While figure 3 may not distinctly show reference character 50 as a separate layer, the specification, specifically col. 7, lines 36 – 41, discloses that the liquid handling layer may be a combination of several sheet or a laminate. Likewise, it is disclosed that the liquid handling layer is a layer positioned between the top layer and the core as set forth in col. 7, lines 42 – 60 and col. 16, lines 59 – 64.

Regarding the applicant's arguments that Reising does not disclose the claimed hydrophilicity limitations, the examiner refers to col. 5, lines 19 – 22, which discloses that the upper layer of the liquid permeable top layer is hydrophobic. Reising also discloses that the lower layer of the liquid permeable top layer (50) is comprised of hydrophobic fibers wherein the surface of the fiber is rendered hydrophilic in col. 14, lines 1 – 40. This would make the lower layer more hydrophilic than the hydrophobic upper layer. Further, Reising discloses that the absorbent core (48) is comprised of hydrophilic fibers (col. 7, line 42 to col. 8, line 4) which would make the core more

hydrophilic than the lower layer because the core is comprised entirely of hydrophilic fibers not just fibers where the surface has been treated to render the layer hydrophilic.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele M. Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday thru Friday, 7:00am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John G. Weiss can be reached on 703-308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

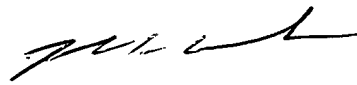
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Michele Kidwell
Michele Kidwell
March 27, 2002


John G. Weiss
Supervisory Patent Examiner
Group 3700